

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

KERRY MAX COOK,

Plaintiff,

v.

CITY OF TYLER, TEXAS, SMITH  
COUNTY, TEXAS, EDDIE CLARK, ERIC  
LIPTAK, DOUGLAS COLLARD, ROBERT  
BOND, GERALD HAYDEN, NELSON  
DOWNING, FRED MAYO, KENNETH  
FINDLEY, RONALD SCOTT, RONNIE  
MALLOCH, MARVIN T. MCLEROY,  
STUART DOWELL, ROBERT WICKHAM,  
JAKE MASSEY, J.B. SMITH, GENE  
CARLSON, JIMMY TOLER, LARRY  
SMITH, UNKNOWN TYLER POLICE  
OFFICERS, UNKNOWN SMITH COUNTY  
SHERIFF'S DEPUTIES,

Defendants.

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CIVIL ACTION NO. 6:17-CV-00333-RWS

**ORDER**

Pursuant to the parties' agreed Notice of Stipulation of Dismissal as to Defendants Larry Smith and Jimmy Toler, in their Official Capacities (Docket No. 57), Defendant Larry Smith and Defendant Jimmy Toler are hereby **DISMISSED WITHOUT PREJUDICE** from this action, with each party to bear its own attorneys' fees and costs.

Any relief not previously granted is hereby denied.

**SIGNED this 9th day of November, 2017.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE